



भारत का राजपत्र

The Gazette of India

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 3rd March, 2006:—

I**BILL No. III OF 2006**

A Bill to provide for the socio-economic protection and welfare measures to be undertaken by the State for the traditional fishermen in the country by way of establishing a Welfare Fund for them and by providing comprehensive life insurance against accidents caused by bad weather, cyclone, super cyclone or tsunami or for any other reason, financial assistance for country boats and nets, unemployment allowance during lean season, free education medicare and other facilities to fishermen and their families and children and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Traditional Fishermen (Socio-Economic Protection and Welfare) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "accident" means an accident caused during the course of fishing including drowning by natural calamity like storm, cyclone, super cyclone or tsunami or otherwise in which the fishermen loses his life;
- (b) "Administrator" means Administrator appointed under section 5;
- (c) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;
- (d) "Fund" means the Traditional Fishermen Welfare Fund established under section 4;
- (e) "partial disablement" means disablement caused by an accident which reduces the working capacity of any fishermen temporarily which he was capable of having before the accident;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "total disablement" includes any disablement which incapacitates a fisherman for all work which he was capable of performing prior to the accident.

National
Policy for
the tradi-
tional
fishermen.

3. (1) The Central Government shall, as soon as may be, but within one year of the commencement of this Act, formulate, in consultation with the Governments of the States having substantial population of traditional fishermen, a long-term national policy for the socio-economic protection and welfare of traditional fishermen and their families who are pursuing their centuries old, traditional, labour intensive rural based occupation.

(2) Without prejudice to the generality of the provisions contained in sub-section (1) the national policy shall provide for,—

- (a) comprehensive insurance cover for the traditional fishermen and their family members in such manner as may be prescribed;
- (b) insurance cover for the country fishing boats and nets and dwelling units;
- (c) rehabilitation measures in case of traditional fishermen affected by sea storm, cyclone, super cyclone or tsunami;
- (d) prevention of intrusion of mechanized boats of any size into traditional fishing grounds in the inshore coastal and inland waters;
- (e) prevention of reckless mechanized fishing to protect the delicate fish ecology and fish breeding grounds generally located in the warm nutrient rich shallow coastal waters;
- (f) such other measures as the Central Government may deem necessary for the protection and welfare of traditional fishermen and their families.

Establishment
of the Tradi-
tional Fisher-
men Welfare
Fund.

4. (1) The Central Government shall, by notification in the Official Gazette, establish a Fund to be called the Traditional Fishermen Welfare Fund for the purposes of this Act.

(2) The initial corpus money of the Fund shall be one thousand crore rupees which shall be provided by the Central Government after due appropriation made by Parliament by law in this behalf.

(3) After the establishment of the Fund, money to the Fund shall be provided by the Central and the State Governments in such proportion as may be agreed to from year to year and the money received by way of donations from individuals, body corporates, financial and other institutions shall also form the corpus money of the Fund.

(4) The Fund shall be administered by the Central Government in such manner as may be prescribed.

5. The Central Government shall, by notification in the Official Gazette, appoint such number of Administrators from amongst its cadres of officers as it may deem necessary who shall entertain and dispose of the claims for payment of compensation and other facilities under this Act and follow such procedures as may be prescribed.

Appointment
of Administra-
tors.

6. The Fund established under this Act shall be utilised for providing,—

Utilisation of
the Fund.

- (a) comprehensive life insurance cover to the traditional fishermen and their family members;
- (b) insurance for dwelling units and household items of the traditional fishermen;
- (c) free medical care to the traditional fishermen and their family members;
- (d) financial assistance to the traditional fishermen for purchasing country fishing boats or repairing such boats, fishing nets and other equipment required for fishing;
- (e) unemployment allowance during illness or financial crisis during lean periods;
- (f) free education including technical and vocational education to the children of traditional fishermen;
- (g) financial assistance for marriage in the family of traditional fishermen;
- (h) such other purposes as may be prescribed.

7. (1) Subject to the provisions of this Act, the amount of compensation payable to a traditional fisherman sustaining injury resulting in his death or partial or total disablement or in case of his drowning or sweeping away by the water currents or in his disappearance or his dwelling unit and movable properties being washed away in a storm or cyclone, super cyclone or tsunami, shall be such as may be specified by the Central Government from time to time by notification in the Official Gazette.

Fixation of
compensa-
tion and
payment
thereof.

(2) In case of death of a traditional fisherman, the compensation fixed under sub-section (1) shall be paid to the spouse of the deceased or to his legal heir or to the children, as the case may be, and in case the deceased being unmarried the compensation shall be paid to his parents.

(3) Every claimant for payment of compensation under this Act shall apply to the Administrator in prescribed format giving such details as may be prescribed.

(4) Every claim for compensation under this Act shall be finalized by the Administrator and payment shall be made within thirty days of the claim.

8. The appropriate Government shall,—

Miscellaneous
provisions.

- (a) establish adequate number of schools and vocational training institutes and healthcare centres in and around the areas inhabited by traditional fishermen for their benefit including their families and children;
- (b) provide adequate and hygienic marketing facilities to the fishermen for their catch;
- (c) provide subsidy for small scale hatcheries and medium scale hatcheries for those traditional fishermen who intend to set up shrimp/prawn farms;
- (d) establish adequate number of chill room facilities in the areas of traditional fishermen;
- (e) prevent the intrusion of mechanized boats into the old traditional fishing grounds in the inshore coastal and inland waters by national and multinational companies;
- (f) through the Coast Guard and Navy, prevent the trespassing by fishermen of other countries into the fisheries of Indian waters;

(g) take up the issue with neighbouring countries through diplomatic channels whenever the Indian fishermen are detained with their boats and nets by such countries so as to ensure their timely release;

(h) take such other measures as it may deem necessary for the protection and welfare of traditional fishermen.

Penalty.

9. Notwithstanding anything contained in any other law for the time being in force, if any person resorts to mechanised fishing in any water to catch or destroy any fish therein, he shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to five lakh rupees or with both and his mechanised boat and nets shall also be confiscated.

Application
of other laws
not barred.

10. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law applicable to fishermen for the time being in force.

Central
Government
to provide
funds to the
States.

11. The Central Government shall provide adequate funds, after due appropriation made by Parliament by law in this behalf, to the States for carrying out the purposes of this Act.

Power to
make rules.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are millions of traditional fishermen and their families living in over 1800 villages along the entire 5650 Kms. coast line of our country who earn their livelihood by catching fish with their country boats and nets and selling it in the market. Catching fish is their family vocation and they are doing it for generations. Traditionally , male fishermen venture into the sea and catch fish whereas the women do the processing work of the fish. However, the fishermen and their families live in abject poverty are debt ridden and have hand to mouth existence whereas the middlemen wholesalers and retailers, etc. flourish at the cost of fishermen because seafood is becoming popular worldwide. Many a time when there is storm, cyclone or super cyclone, large numbers of fishermen are carried away by water currents. Thousands of fishermen lost their lives when Orissa was swept away by super cyclone few years back and during the recent tsunami disaster in various parts of the country including Pondicherry, Tamil Nadu, Andaman Nicobar, etc. They also lose their dwelling units mainly huts and their household belongings and food items when hit by cyclone, super cyclone or tsunami. Similarly, many a time they get drowned during fishing or receive injuries leading to their partial or total disablement. But nobody except their family members are there to look after them who being poverty stricken themselves can not afford to look after the affected fishermen. The whole family is ruined due to death or disablement of a fishermen. Further, the survival of traditional fishermen is threatened by the intrusion of mechanized boats into their centuries old traditional fishing grounds in the inshore coastal and inland waters. These mechanized boats not only deprive the traditional fishermen of their catch but also destroy the delicate fish ecology and fish breeding grounds by reckless mechanized fishing which causes killing of fish eggs resulting in alarming depletion of fish resources, disastrous decline in daily fish catch rendering poor traditional fishermen impoverished.

Hence in a welfare State like ours, the State should come forward to provide a helping hand to the poor traditional fishermen. They should be provided with adequate insurance against accidents caused by storm, cyclone, super cyclone or tsunami and insurances for their dwelling units and household items. They should also get (i) healthcare, financial assistance for marriages and other needs, educational and vocational facilities for their children, (ii) marketing facilities, chill room facilities and other necessary facilities, and socio-economic protection firm steps should be taken to prevent mechanized fishing as well.

Hence this Bill.

V. NARAYANASAMY

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the traditional Fishermen Welfare Fund. Clause 5 provides for the appointment of Administrators. Clause 11 provides that the Central Government shall provide adequate funds to the States for carrying out the purposes of this Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. Apart from the initial corpus fund of one thousand crore rupees it is estimated that a sum of two thousand crore rupees may involve as recurring expenditure per annum.

A sum of rupees one thousand crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

II

BILL NO. V OF 2006

A Bill to provide for ensuring remunerative prices for the agricultural produce of the farmers by way of fixation of minimum support price, compulsory purchase of the produce through Governmental agencies and compulsory market intervention by such Governmental agencies in cases of bumper crops and for the establishment of an autonomous Board for the purposes and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Agricultural Produce (Remunerative Prices) Act, 2006.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "agricultural produce" include wheat, paddy, pulses, sugarcane, cotton, oilseeds, fruits, jute, vegetables and such other agricultural produce like bajra, jowar, millet, madwa, maize, soyabean, spices including chillies or horticultural produce which is used for human consumption or for medicinal purposes;
- (b) "appropriate Government" means in the cases of a State the Government of that State and in other cases the Central Government;
- (c) "Board" means the National Agricultural Proudece Remunerative Prices Fixation Board established under section 3;
- (d) "prescribed" means prescribed by rules made under this Act.

Establishment
of the
National
Agricultural
Produce
Remunerative
Prices
Fixation
Board.

3. (1) The Central Government shall, as soon as may be, but within six months of the commencement of this Act, by notification in the Official Gazette, establish a Board to be known as the National Agricultural Produce Remunerative Prices Fixation Board for the purposes of this Act.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Board shall consist of,—

- (a) a Chairperson and Deputy Chairperson with qualifications in the field of agriculture or with agriculture background to be appointed by the Central Government;
- (b) five members to be appointed by the Central Government in consultation with State Governments, by rotation in alphabetical order, to represent the Governments of the States;
- (c) one member each to represent the Union Ministries of Agriculture and Fertilizers to be appointed by the Central Government;
- (d) one member to represent the Indian Council of Agricultural Research;
- (e) two representatives of the agricultural workers;
- (f) three members to be appointed by the Central Government from amongst the farmers representing the four regions of the country;
- (g) three Members of Parliament of whom two shall be elected by Lok Sabha and one by Rajya Sabha.

(4) The term of office of the Chairperson, Deputy Chairperson, members of the Board and the manner of filling vacancies and the procedure to be followed in the discharge of their functions shall be such as may be prescribed.

(5) The headquarters of the Board shall be at Pondicherry.

(6) The Board shall set up one Zonal office each in the eastern, western, northern and southern parts of the Country at such places and also in other parts of the Country as the Board may deem necessary for the efficient functioning of the Board and such zonal offices shall provide the necessary inputs and data of agricultural production to the Board with such details and in such manner as may be prescribed.

(7) The Board shall have a Secretariat with such number of officers and staff and with such terms and conditions of service as may be prescribed.

Functions of
the Board.

4. (1) The Board shall discharge the following functions, namely:—

- (a) fix and declare remunerative prices of agricultural produce before every sowing season so as to ensure that farmers do get remunerative price for their produce;

Provided that different prices may be fixed for different zones of the Country.

(b) while fixing the remunerative prices of the agricultural produce, the Board shall take into account the following factors, namely:—

- (i) average investment made by the farmers in sowing and growing the crop of particular agricultural produce;
- (ii) average labour charges and expenditure incurred by farmers thereon;
- (iii) expenditure on premium of crop insurance, if applicable in the area;
- (iv) maintenance cost of the fields;
- (v) prevailing market price of the produce;
- (vi) climatic conditions and occurrence of natural calamity;

(c) ensure that the farmers get a reasonable and remunerative price for their produce.

(2) The Board shall discharge the functions in close liaison with Central and State Agencies, institutions, authorities responsible for procurement, supply distribution, trade or such other activities of agricultural produce and avoid duplication of efforts in this regard.

(3) The Board shall give wide publicity to the remunerative prices Fixed by it for the agricultural produce through electronic and print media throughout the country.

5. Notwithstanding anything contained in any other law for the time being in force,—

(a) the Central and State Government agencies shall purchase the agricultural produce from the farmers at the prices fixed by the Board in case the farmers fail to sell their produce in the open market.

(b) the appropriate Government shall invoke market intervention compulsorily whenever there is bumper crop of any agricultural produce for which the Board has not fixed remunerative prices and purchase the produce offered for sale through the Governmental agencies in the manner as may be prescribed.

(c) the appropriate Government shall keep a watch on the activities of the vicious circle of traders and middlemen during the immediate post harvest period to ensure that the prices of agricultural produce do not fall below the expectations and take such measures as it may deem necessary to protect the interests of the farmers.

6. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the farmers and their produce.

7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

8. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide adequate funds for the purpose of this Act.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Miscellaneous Provisions.

Act to have overriding effect.

Power to remove difficulties.

Central Government to provide funds.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It has rightly been said that India lives in villages because nearly 80 per cent of our population lives in villages and majority of them are farmers who grow food for the entire nation and who have made the country self sufficient in foodgrains. But unfortunately even after more than five decades of country's independence the lot of farmers has not improved mainly because they have to depend upon the vagaries of monsoon and they do not get remunerative prices for the crop they grow for which they and their entire family works hard. But it has been observed that in the immediate post harvest period, prices of agricultural produce nosedive due to the manipulation of the unholy nexus of unscrupulous traders, middlemen and others in the trade. The farmers have to sell their produce at throwaway prices due to this nexus which later on is sold on premium to the consumers. One small Committee in the Union Agriculture Ministry fixes the Minimum Support Price (MSP) of some agriculture produce but it has been observed that generally the MSP is not remunerative and remains below the expectations of the farmers. More so, this MSP has no legal backing. Hence it is felt that if an autonomous Board is established to fix the remunerative prices with certain guidelines, this problem of the farmers can be solved to a great extent because assured prices of the commodities or agricultural produce will remove the uncertainty caused by the glut in the market. The farmers will get the remunerative prices for their produce and eventually it will benefit them and they will become prosperous.

Hence this Bill.

V. NARAYANASAMY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Agricultural Produce Remunerative Prices Fixation Board. Clause 8 provides that Central Government shall provide adequate funds. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crore may involve as recurring expenditure per annum.

A sum of rupees one hundred crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

III

BILL No. XII OF 2006

A Bill to provide for the compulsory use of mother tongue in imparting basic and primary education to children of tender age by all educational institutions so as to enable them to learn their lessons easily which will help them in properly developing their faculties and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Basic and Primary Education (Compulsory Imparting in Mother Tongue) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "basic education" means education provided in preparatory schools or kindergarden and such other schools by whatever name called;

(c) "educational institution" includes all schools whether run by Government or Government body or private individual, association or trust, whether aided by Government or not, recognized or unrecognized, imparting education to the children from beginning of basic education;

(d) "mother tongue" means the language generally spoken in the family of the child who learns it from his mother and other family members and which is one of the languages mentioned in the Eighth Schedule to the Constitution of India;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "primary education" includes education up to the level of middle class or standard.

Compulsory imparting of basic and primary education in mother tongue of the child.

3. (1) Notwithstanding anything contained in any other law for the time being in force, every educational institution including those established by minorities, religious or linguistic ones, shall impart basic and primary education to the children in their mother tongue or dialect generally spoken in the region or State, as the case may be, where such an institution is located, in addition to Hindi or English language, as the case may be, so as to properly develop the faculties of the children.

(2) It shall be the duty of the appropriate Government to ensure strict compliance of the provisions of sub-section (1) in such manner as may be prescribed.

(3) For the purposes of sub-section (1) the appropriate Government shall appoint language teachers in all Government run or aided schools and shall provide requisite infrastructure for that purpose.

(4) The appropriate Government shall derecognize the educational institutions not complying with the provisions of this Act for such period as it may deem necessary and impose such other sanctions as may be prescribed after giving such institutions a reasonable opportunity to defend their cases.

Power to exempt.

4. The appropriate Government may either retrospectively from the enactment of this Act or prospectively exempt from the operation of the provisions of this Act, the members of any race, sect or tribe to which it may consider it impossible or inexpedient to apply the provisions of this Act.

Central Government to provide funds.

5. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide requisite funds to the States for appointing language teachers and providing other infrastructure required for the purposes of this Act.

Power to remove difficulty.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made or direction be given after three years of the commencement of this Act.

Act to have overriding effect.

7. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be made in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

For a child the easiest language is his mother tongue. He learns to speak his mother tongue from his mother and family members who generally speak the language spoken from generations or the dialect of their forefathers or of the area or region in which they reside. In major parts of our country, Hindi is the main language with different dialects at different places but it is written in Devanagari script and can be understood easily. Then there are regional languages. A total of 22 languages have been recognized by our Constitution. The mother tongue, no doubt, is the best language for a child to develop his faculties but when he or she is admitted in the play school or Kindergarten or primary school more so in the so-called elite or public schools, the child has to switch over to English medium, which is the medium of instruction in such schools. At this stage the real difficulty of the child begins. He speaks a particular language but the education is imparted in a different language. This causes strain and in order to become a part of the system he starts ignoring his own mother tongue. In the Hindi speaking areas, students of public schools cannot count in Hindi and do not recognize Hindi alphabets because they cannot speak in their language and have to speak only in English. In many schools students are penalized if they speak in any other language than English. Though the child learns English in compulsion but he is not at ease with this language and on the other hand he does not develop sufficient knowledge of his own language. It is therefore necessary that a child should be imparted basic and primary education in his mother tongue, which is the easiest language for him. Thereafter, the child grows up and he can acquire the skills in other languages and opt for the language of his choice for his further studies.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 5 of the Bill makes it obligatory for the Central Government to provide requisite funds to the States for carrying out the purposes of this Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

IV

BILL No. VIII of 2006

A Bill to provide for the prevention of sexual harassment or exploitation of working women at their work places by their employers, superiors, fellow colleagues or by anyone who is directly or indirectly connected with such work place through deterrent punishment and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement. 1. (1) This Act may be called the Working Women (Prevention of Sexual Harassment At Workplaces) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions. 2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of State the Government of that State and in other cases the Central Government;

(b) "employer" means,—

(i) in relation to an establishment under the control of the appropriate Government, the head of the Department or Ministry as the case may be;

(ii) in relation to an establishment under any local authority or Local Self Government, the Chief Executive Officer by whatever designation called;

(iii) in relation to other cases, the person or the authority who has the ultimate control over the affairs of the workplace.

(c) "prescribed" means prescribed by rules made under this Act;

(d) "sexual exploitation or harassment" includes any unwanted or unwarranted gesture or verbal sexual advances, sexually explicit and derogatory statements or remarks, avoidable and unwarranted physical contacts, willfully touching or patting, suggestive sexual remarks, sexually slanted and obscene jokes, vulgar comments about physical appearance, indecent invitations, use of pornographic material, demand for sexual favours, demanding sexual favour by making telephone calls or sending SMS, threats of physical assault or molestation or refusal by the women workers by their male superiors, colleagues or any one who for the time being is in a position to sexually exploit or harass the working women at any workplace;

(e) "working woman" means any woman who is employed, whether directly or through any agency for wages or for similar other considerations at any workplace;

(f) "work place" includes a factory, mine, plantation, agricultural field, livestock rearing site including poultry, hospital or nursing home, shop or business establishment, brick kiln, construction site, banking or financial institutions including cooperative ones, Government or semi-Government establishments or departments including post offices and telecommunication, private office or service provider, cyber cafes and call centres, mobile phone companies, schools, colleges, universities and like institutions and such establishments wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, airlines, film industry and any such other place where a woman is employed for any work whatsoever.

3. (1) Sexual exploitation or harassment of any working woman at her work place is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Prohibition of sexual exploitation or harassment of working women at work place.

Penalty.

45 of 1960

4. Notwithstanding anything contained in the Indian Penal Code or any other law for the time being in force whoever contravenes the provisions of section 3 shall be punished with imprisonment for a term which shall not be less than three years but may extend to five years and also with fine which may extend to two lakh rupees.

Burden of proof and trial in camera etc.

5. (1) Notwithstanding anything contained in any other law for the time being in force, the onus of proving the innocence shall be on the accused and the sexually harassed woman shall have the right to lead evidence in rebuttal.

(2) The trial of an offence committed under this Act shall be held in camera if the harassed woman so desires.

(3) Notwithstanding anything contained in any other law for the time being in force, the case of a sexually harassed woman at a work place shall be pleaded either by herself or with her consent by any women's organisation or the trade union of which she is a member.

6. (1) The appropriate Government shall as soon as may be set up adequate number of Complaint Committees in all its Ministries and Departments, Semi Government Organizations, Public Sector Enterprises, Banking and Financial Institutions, Trusts and local self bodies and in all the district Headquarters and Block levels for redressal of the complaints made by the sexually exploited and harassed working women at their work places.

Setting up of Complaint Committees.

(2) The Complaint Committees shall consist of such members and the Committee shall follow such procedure as may be prescribed.

Act to
supplement
other laws.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to
make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Half of the population of the nation is women who have been exploited for centuries. However, with the change of time there is awakening amongst the women and, today, in almost every field of economic activity, women form a good part of the workforce. As a result, the number of working women is increasing very fast. Women have now to work under the most disadvantageous service conditions in certain establishments and cases of their sexual exploitation are also increasing day by day. Working women are very often sexually harassed at the work places by their male employers, bosses, colleagues, and others but more often these cases are not reported by them for fear of social ostracism, family pressure or reprisal through threats and discriminatory treatment. As a result the working women often feel insecure at their work places. The Supreme Court of India has taken this issue very seriously. In the case of *Vishaka and Others vs. State of Rajasthan and others*, the Supreme Court has laid down norms and guidelines to be followed by employers or other responsible persons in the work places or other institutions to prevent or deter the commission of acts of sexual harassment as also to provide the procedures for resolution, settlement or prosecution of acts of sexual harassment by taking all steps required including setting up of Complaints Committees for redressal of the complaint made by the victim. The National Commission for Women has also taken up this issue very seriously. It has, however been found that the Complaint Committees have not been formed in a number of cases.

Though the Supreme Court judgement is there, no law however, has been enacted to deal exclusively with this issue, which is of vital importance for the working women throughout the country.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for setting up of Complaint Committees. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore may involve as recurring expenditure from the Consolidated Fund of India per annum.

No non-recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V

BILL NO. X OF 2006

A Bill to provide for the compulsory maintenance, protection and welfare of senior citizens so as to secure a life of dignity, peace and security for them and for the welfare measures to be undertaken by the State for its aged citizens and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Senior Citizens (Maintenance, Protection and Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “indigent” means a senior citizen who, due to age related infirmity or disability or ailment, is incapable to earn his livelihood and who has no independent and adequate means of livelihood;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "senior citizen" means any citizen who is sixty or more years of age.

3. The Central Government shall, as soon as may be, but within one year of commencement of this Act, review the existing policy, if any, and formulate a National Policy for the overall welfare, care and protection of the senior citizens so as to give them a secure life of dignity at the fag end of their lives.

National Policy for the senior citizens.

4. (1) Notwithstanding anything contained in any other law for the time being in force it shall be the duty of every person to take care, look after and maintain his parents and grand parents and more so who do not have any source of income or sustenance, as the case may be.

Compulsory maintenance of senior citizens by their kins.

(2) Whoever fails to comply with the provisions of sub-section (1) shall be guilty of an offence under this Act.

5. The appropriate Government shall maintain district wise register of senior citizens with such details and particulars and in such manner as may be prescribed.

Register of senior citizens.

6 (1) The Central Government shall establish and maintain sufficient number of senior citizens' homes at conspicuous places in the country in consultation with the concerned Governments of the States and Union Territory Administrations and provide all necessary facilities in such homes as may be prescribed.

Establishment of senior citizens' homes.

(2) All indigent and other senior citizens abandoned or neglected by their kith and kin shall be kept in the homes referred to in sub-section (1) by the appropriate Government.

(3) Apart from the facilities of day to day life, the homes shall also provide means of entertainment and such recreational facilities which may help the senior citizens residing in such homes to overcome their distress at being indigent or being neglected by their kith and kin.

7. (1) Every senior citizen shall, on an application made in the prescribed format, be given rupees one thousand per month as financial assistance for his subsistence by the appropriate government in whose jurisdiction the senior citizen ordinarily resides and the financial assistance payable to such citizens shall be linked with the cost of living index so as to ensure a decent living to the senior citizens:

Financial assistance to senior citizens.

Provided that the financial assistance shall not be given to those senior citizens who are residing and being looked after in the senior citizens homes established under section 6.

(2) The financial assistance referred to in sub-section (1) shall be disbursed to the senior citizens through Government Treasury or any branch of a public sector Bank or Post Office as per the preference given by the concerned senior citizen in his application form.

8. The appropriate Government shall provide to every senior citizen,—

Medical and Other facilities to the senior citizens.

(a) free medical treatment in Government hospitals and dispensaries or other dispensaries, nursing homes and clinics recognized by the appropriate Government;

(b) free travel facilities by public transport and concessions in private owned transport;

(c) free pilgrimages within the country, pilgrimage to Mansarovar and Haj in such manner as may be prescribed;

(d) facilities for Yoga and other sports;

(e) interest free loans for housing and self-employment purposes.

9. (1) Notwithstanding anything contained in any other law for the time being in force the local police of every Police Station or Police Post shall keep a record of all the senior citizens residing in its jurisdiction so as to provide maximum security to such citizens.

Area Police to provide security to senior citizens.

(2) It shall be the duty of the area Station House Officer or In-charge of the Police Post of the local Police as the case may be to provide maximum security to every lone senior citizen or lonely couple residing in his jurisdiction in such manner as may be prescribed.

Maintenance Allowance in certain cases.

10. (1) In case of non-compliance of the provisions of section 4 by any person, a Magistrate of the first class may, upon proof of such neglect or refusal by such person, order such person to make a monthly allowance or lump sum payment thereof for such period as may be prescribed for the maintenance of his father or mother or both, as the case may be and to pay the same to such senior citizen as the Magistrate may from time to direct.

(2) The Magistrate may, before making an order under sub-section (1), consider all or any of the following matters:

(a) the average income, property or joint family property income of the person against whom maintenance order has to be passed;

(b) the standard of living of the family;

(c) any other matter which, in the circumstances, the Magistrate may consider relevant.

(3) An appeal shall lie to the concerned High Court from any order made by the Magistrate under sub-section (1).

Penalty.

11. If any person who is ordered to pay maintenance allowance under section 10 of this Act, fails without sufficient reasons to comply with the order or willfully refuses to maintain and take care of his parents or grand parents, as the case may be, shall be liable to imprisonment for a term which shall not be less than five years but may extend to ten years and also with fine which may extend to ten lakh rupees.

Central Government to provide requisite funds.

12. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the State Governments for carrying out the purposes of this Act.

Act to have overriding effect.

13. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to senior citizens in any part of the country.

Power to make rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act;

STATEMENT OF OBJECTS AND REASONS

As per Census 2001, there were 7,66,22,321 senior citizens in our country and their population is growing very fast and by the year 2016 the population of senior citizens will be more than ten per cent of the total population of the nation. Majority of these senior citizens are unable to take care of themselves and do not have sufficient means to lead a decent and happy life. Due to near disintegration of joint family system and economic considerations by their kith and kin, the senior citizens are being ignored by their near and dear ones who are left to fend for themselves and compelled to lead a lonely and disappointed life. Though section 125 of the Code of Criminal Procedure, 1973 provides for maintenance allowance that the senior citizens can claim from their legal heirs, but generally the majority of senior citizens do not claim maintenance because of their ignorance or self-pride which compels them to disown their kith and kin who they feel have dumped them.

These days another alarming trend which is emerging is that lonely or couple senior citizens are being murdered either for their property or are robbed and they are becoming easy targets of the criminals. Hence it has become necessary to give utmost security to the senior citizens.

In a welfare State like ours, it is the duty of the Central and State Governments to look after the senior citizens so that they too lead a decent life at the fag end of their lives. For this, the Central Government should open Senior Citizen Homes, give financial assistance, medical aid and other facilities to the indigent and needy senior citizens so as to enable them to forget the wounds given by their own near and dear ones.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the establishment of Senior Citizens Homes. Clause 7 provides for the financial assistance to senior citizens. Clause 8 provides for medical and other facilities for senior citizens. Clause 12 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore may involve as recurring expenditure per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL NO. VI OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force with immediate effect.

Amendment of article 105.

2. In article 105 of the Constitution, in clause (2), the following proviso and explanation shall be inserted namely:—

“Provided that the immunity to the members of Parliament under this clause shall not be extended to cover the corrupt acts committed by them in discharge of their duties in either House of Parliament or otherwise.

Explanation.—For the purpose of this clause, corrupt acts include accepting money or any other valuable gift in consideration of speaking or giving vote or raising a matter in either House of Parliament in a particular manner.”

3. In article 194 of the Constitution, in clause (2), the following proviso and explanation shall be inserted namely:—

Amendment of
article 194.

“Provided that the immunity to the members of the Legislature of a State under this clause shall not be extended to cover the corrupt acts committed by them in discharge of their duties in the House of such a legislature or otherwise.

Explanation.—For the purposes of this clause, corrupt acts include accepting money or any other valuable gifts in consideration of speaking or giving vote or raising a matter in the House of such a legislature in a particular manner.”

STATEMENT OF OBJECTS AND REASONS

Article 105(1) of the Constitution provides that subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament. Clause (2) of the same article says that no member of Parliament shall be liable to any proceeding in any court of law in respect of anything said or any vote given by him in Parliament or any of its Committees. Similar provisions are there for members of State Legislatures under article 194 of the Constitution.

The Hon'ble Supreme Court in its judgement in 1998 in the JMM pay off case held that a bribe-taker can claim immunity under article 105 of the Constitution if he has actually spoken or voted as per the wishes of the bribe-giver. As a result what was morally impermissible was made legally permissible. It would have never been the intention of the founding fathers of our Constitution that such a protection shall be given to a person involved in corrupt practices or acts.

The Constitution Review Commission in its report submitted in 2002 observed that such an interpretation of immunity of members of Parliament runs counter to all nations of justice, fairplay and good conduct. It has further been observed that freedom of speech inside the House cannot be used by members to solicit or accept bribes which is an offence under the criminal law of the country and JMM verdict makes it necessary to clarify true intent of the Constitution. Any member of Parliament accepting money or any other valuable gift in consideration of speaking or raising a matter or giving vote in a certain manner in the House should be liable for action under the ordinary law of the land.

The cash-for-question scam which came to light during the last winter session of Parliament in 2005 rocked the roots of the biggest democracy in the world. Therefore, to protect the dignity, honour and respect of the Parliament and its members, it is essential to put it beyond doubt that protection against legal action under article 105 of the Constitution does not extend to cover corrupt acts.

In the UK Parliament, under the advocacy rule, a ban has been imposed by the House of Commons on members lobbying for reward or consideration. It forbids a member to engage in any advocacy that seeks to confer benefit exclusively upon a body from which he has been directly or indirectly receiving a pecuniary benefit. It deals with the same kind of situation that arose in our country in cash-for-question scam.

This situation emerging after JMM case and the recent cash-for-question scam needs to be overcome and hence amendments in the Constitution are inevitable.

Hence this Bill.

VIJAY J. DARDA

VII

BILL NO. XI OF 2006

A Bill to provide for protection from criminal or civil liability, departmental inquiry, demotion, harassment and discrimination of whistle blowers, i.e., the persons who bring to light specific instances of illegality, criminality, corruption, miscarriage of justice, any danger to public health and safety in any Government, public or private enterprise to an authority designated for the purposes and matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

- | | |
|--|---|
| 1. (1) This Act may be called the Whistle Blowers (Protection in Public Interest Disclosures) Act, 2006. | Short title,
extent and
commencement. |
| (2) It extends to the whole of India. | |
| (3) It shall come into force at once. | |

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "designated Authority" means the authority designated by the Central Government to receive complaints of public interest disclosures under section 6 and includes any new authority created in this behalf;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "public interest disclosure" means specific disclosure by an individual involving illegality, criminality, breach of law, miscarriage of justice, danger to public health and safety and damage to environment and includes attempt to cover up such malpractices in any governmental establishment, public or private enterprise;

(d) "whistle blower" means any individual making public interest disclosure.

Appointment of Designated Authority.

3. (1) The Central Government shall, within three months from the commencement of this Act, by notification in this behalf, appoint a designated authority for the purpose of receiving and processing complaints on public interest disclosure under this Act.

(2) The designated authority shall have offices in the capital city of each State and Union Territory in the country.

Public interest disclosure to be made in writing.

4. (1) A whistle blower desirous of making a public interest disclosure shall make it to the designated authority in writing or in electronic form either in English or Hindi.

(2) The designated authority shall keep the identity of the whistle blower secret:

Provided that the whistle blower shall comply with all the instructions issued by the designated authority in this regard to keep his identity secret.

Adequate protection to whistle blower.

5. (1) A whistle blower making public interest disclosure shall be given adequate protection by the designated authority in such ways and manner as may be prescribed.

(2) Without prejudice to the generality of the provision in clause (1), protection shall include protection from departmental enquiry, criminal and civil liability, delay in promotion, demotion harrassment, discrimination.

Action to be taken on false complaints.

6. (1) The designated authority shall not entertain any anonymous complaints received by it in any manner.

(2) The designated authority may on such verifications as may be necessary in this regard cause such action to be taken against the complainant on false complaints as may be prescribed.

Punishment.

7. Any person retaliating against a whistle blower shall be punishable with an imprisonment which may extend to five years:

Provided that if the public interest disclosure by whistle blower happens to belong to the Central or State public sector undertakings or corporate sector, the period of imprisonment for the person so retaliating may extend to ten years.

Non-applicability of Official Secrets Act, 1923 to the whistle blowers.

8. The provisions of the Official Secrets Act, 1923 or any agreement or service conduct rules shall not be applicable to the whistle blowers in relations to public interest disclosures.

19 of 1923.

Overriding effect of the Act.

9. The provisions of this Act and the rules made there under shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force.

Power to remove difficulty.

10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not

inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

11. The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There is no denying the fact that corruption is rampant in our country. Be it Government, public sector or private sector—everywhere, it has crept into the system. It is so deep rooted and channelised that when a whistle blower tries to raise his voice against corrupt practices from within the system, his voice is scuttled and he is made to suffer because of his audacity for his outburst. The instances of a whistle blower being fired, demoted, harassed or punished in other ways while the organization denies, ignores or quietly buries a disclosure are in abundance.

It is true that under normal circumstances, an organization is entitled to total loyalty and confidentiality from its employees. But when there is serious malpractice or when people's lives are at stake—as in cheating and corruption; defence deals; destruction of national wealth; conspiracy against state; encounters of innocent persons; toxic leaks from a chemical factory; non-adherence of safety standards in factories, mines and other establishments; false declarations by a company; the public interest demands that such an event be disclosed and the person showing courage for this should be protected rather than punished. Auditors, vigilance commissions, regulators, the press, society and courts all play an important role in checking the malpractices to some extent. But it is difficult to lay hands on the inside information provided by the whistle blower. Even the recent Right to Information Act, 2005 is not of much use in this regard.

Further, there is the legal bar in the form of Official Secrets' Act and Conduct Rules in the public sector or a Non-disclosure Agreement in the corporate sector by which the employees are gagged from disclosing matters to the public on pain of incurring criminal or civil liability for any breach. It is unreasonable to expect employees to sacrifice their jobs and future in order to protect the public interest. A few daredevils may do it but the majority will not venture out in the area. In trying to protect the whistle blowers, we will not only protect the society and ourselves but also serve as a deterrent to the Government and other organizations. In many countries, the laws relating to protection of whistle blowers have been enacted. The UK's Public Interest Disclosures Act, 1998 is a fine piece of legislation providing protection to employees in public, private and non-public sectors including those working outside the UK. Sarbanes—Oxley Act of 2002 enacted by US Congress granted sweeping legal protection to whistle blowers in publicly traded companies. Under this Act, anyone retaliating against a corporate whistle blower can be imprisoned for 10 years with remedies available to the whistle blower include reinstatement, back pay with interest, compensatory damages, special damages, attorney fee and costs.

The issue of protection to whistle blowers has assumed special significance in the light of the murder of National Highways Authority of India's Deputy General-Manager, Shri Satyandra Dubey, who raised his voice against the prevalent corruption in awarding road building contracts under Golden Quadrilateral Projects. Another brilliant officer of Indian Oil Corporation, Shri A. Manjunath, had to lay down his life for highlighting adulteration and mafia operations in the functioning petrol pumps. There are numerous cases in our country which speak volumes of the need for such legislation. Even the Law Commission has recommended the need for a Whistle Blower Protection Act which will ensure transparency in the administration and will also provide a sense of security to the whistle blower.

Hence this Bill.

VIJAY J. DARDA

FINANCIAL MEMORANDUM

Clause 3 of the Bill empowers the Central Government to appoint a designated authority to look into the cases of public interest disclosure from whistle blowers. It also provides that the designated authority shall have offices in the capital of each State and Union Territory. The Bill, if enacted will involve expenditure from the Consolidated Fund of India to the tune of rupees fifty crore.

Non-recurring expenditure of rupees thirty crore will also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill and the rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

YOGENDRA NARAIN,
Secretary-General.